

STATUTORY CONSTRUCTION — Rules of statutory construction, in general
.....**Revised 12/2009**

A.R.S. § 1-211 provides general rules for construing Arizona law. That statute reads:

§ 1-211. Rules of construction and definitions

A. The rules and the definitions set forth in this chapter shall be observed in the construction of the laws of the state unless such construction would be inconsistent with the manifest intent of the legislature.

B. Statutes shall be liberally construed to effect their objects and to promote justice.

C. The rule of the common law that penal statutes shall be strictly construed has no application to these revised statutes. Penal statutes shall be construed according to the fair import of their terms, with a view to effect their object and to promote justice.¹

A.R.S. § 1-213 generally requires courts to construe words with their common dictionary meaning, except for “terms of art” that have “acquired a peculiar and appropriate meaning in the law.”² That statute reads:

§ 1-213. Words and phrases

Words and phrases shall be construed according to the common and approved use of the language. Technical words and phrases and those which have acquired a peculiar and appropriate meaning in the law shall be construed according to such peculiar and appropriate meaning.

¹ Title 13 of the Arizona Revised Statutes, which contains the criminal code, reiterates this rule, stating, “The general rule that a penal statute is to be strictly construed does not apply to this title, but the provisions herein must be construed according to the fair meaning of their terms to promote justice and effect the objects of the law” A.R.S. § 13-104.

² Such “terms of art” include “appearance,” *Lane v. City of Tempe*, 202 Ariz. 306, 308, ¶ 15, 44 P.3d 986, 988 (2002); “probable cause,” *State v. Smith*, 208 Ariz. 20, 24, ¶ 14, 90 P.3d 221, 225 (App. 2004); and “consequential damages.” *State v. Morris*, 173 Ariz. 14, 17, 839 P.2d 434, 437 (App. 1992).

A court will therefore give effect to the ordinary words of a statute “in accordance with their commonly accepted meanings.” *State v. Reynolds*, 170 Ariz. 233, 234, 823 P.2d 681, 682 (1992); accord *Dowling v. Stapley*, 218 Ariz. 80, 84, ¶ 8, 179 P.3d 960, 964 (App. 2008).

A.R.S. § 1-214 provides specific rules for construing words expressing tense, number, and gender, stating that words in the present tense include the future; words in the singular include the plural and vice versa; and words in either the masculine or feminine gender include the other gender and the neuter.

When courts construe a statute, the primary goal is to fulfill the intent of the legislature that wrote it. *State v. Peek*, 219 Ariz. 182, 184, 195 P.3d 641, 643 (2008); *State v. Jernigan*, 221 Ariz. 17, ¶ 9, 209 P.3d 153, 155 (App. 2009). “Legislation is not always expressed with perfect clarity. The goal of statutory construction is to give statutes the meaning the legislature intended and strict rules of grammar will be ignored where they are inconsistent with the statute's general meaning and object.” *State ex rel. Arizona Dept. of Revenue v. Phoenix Lodge No. 708*, 187 Ariz. 242, 248, 928 P.2d 666, 672 (App. 1996); see also *Watts v. Arizona Dep’t of Revenue*, 221 Ariz. 97, 102, ¶ 22, 210 P.3d 1268, 1273 (App. 2009) (stating that “the clear intent of the legislature takes precedence as a canon of construction of all grammatical rules”).

The best and most reliable index of the legislature’s intent is the statute’s language and, when the language is clear and unequivocal, that language determines the statute’s construction. *Deer Valley Unified Sch. Dist. No. 97 v. Houser*, 214 Ariz. 293, 296, ¶ 8, 152 P.3d 490, 493 (2007); *City of Phoenix v. Johnson*, 220 Ariz. 189, 191, ¶ 9, 204 P.3d 447, 449 (App. 2009). Therefore, if a court finds no ambiguity in the

statute's language, the court must give effect to that language and may not employ other rules of construction to interpret the provision. *North Valley Emergency Specialists, L.L.C. v. Santana*, 208 Ariz. 301, 303, 93 P.3d 501, 503 (2004); *State v. Nelson*, 208 Ariz. 5, 7, ¶ 7, 90 P.3d 206, 208 (App. 2004), *citing Janson v. Christensen*, 167 Ariz. 470, 471, 808 P.2d 1222, 1223 (1991). "If the language is clear, we must follow the text as written without employing other rules of statutory construction. *State v. Riggs*, 189 Ariz. 327, 942 P.2d 1159 (1997)." *State v. Givens*, 206 Ariz. 186, 188, ¶ 5, 76 P.3d 457, 459 (App. 2003). "The clear language of a statute is given its usual meaning unless an absurd or impossible consequence would result." *State v. Superior Court*, 190 Ariz. 203, 206, 945 P.2d 1334, 1337 (App. 1997). If, however, the legislative intent is not clear from the plain language of the statute courts do consider other factors such as the statute's context, subject matter, historical context, effects and consequences, and spirit and purpose. *Watson v. Apache County*, 218 Ariz. 512, 516, ¶ 17, 189 P.3d 1085, 1089 (App. 2008); *Sanderson Lincoln Mercury, Inc. v. Ford Motor Co.*, 205 Ariz. 202, 205, ¶ 11, 68 P.3d 428, 431 (App. 2003) *citing Wyatt v. Wehmueeller*, 167 Ariz. 281, 284, 806 P.2d 870, 873 (1991).

When courts examine a statute, they consider the statutory scheme as a whole and presume that the legislature did not include anything in the statute that is "redundant, void, inert, trivial, superfluous, or contradictory." *State v. McDermott*, 208 Ariz. 332, 334-35, 93 P.3d 532, 534-35 (App. 2004), *quoting State v. Moerman*, 182 Ariz. 255, 260, 895 P.2d 1018, 1023 (App. 1994); *State ex rel. Thomas v. Duncan*, 222 Ariz. 448, ¶ 8, 216 P.3d 1194, 1196 (App. 2006). Courts presume that the legislature states its meaning as clearly as possible and that, if it wants to limit the application of a

statute, it does so expressly. *State v. Sanchez*, 209 Ariz. 66, 70, ¶ 11, 97 P.3d 891, 894 (App. 2004). In addition, courts are required to construe two apparently conflicting statutes in harmony, whenever that is possible. *UNUM Life Ins. Co. of America v. Craig*, 200 Ariz. 327, 333, ¶ 28, 26 P.3d 510, 516 (2001); *Rueschenberg v. Rueschenberg*, 219 Ariz. 249, 252, ¶ 12, 196 P.3d 852, 855 (App. 2008); *State v. Box*, 205 Ariz. 492, 496, ¶ 12, 73 P.3d 623, 627 (App. 2003). A court interpreting a statute must seek to determine the legislature's intent, must consider the statute as a whole, and, when possible, must give effect to every part of the statute. *State v. Vogel*, 207 Ariz. 280, 284, 85 P.3d 497, 501 (App. 2004). If the statutes are so inconsistent they cannot be harmonized, the more recent statute controls. *UNUM Life Ins. Co. of America*, 200 Ariz. at 333, ¶¶ 28-29, 26 P.3d at 516; *State v. Wagstaff*, 164 Ariz. 485, 496, 794 P.2d 118, 129 (1990). Likewise, courts will try to harmonize statutes and rules of procedure. *State v. Kearney*, 206 Ariz. 547, 549-550, ¶ 5, 81 P.3d 338, 340-341 (App. 2003).

If possible, a court must construe a statute so that it will be constitutional. *Arizona Minority Coal. for Fair Redistricting v. Arizona Indep. Redistricting Comm.*, 220 Ariz. 587, 594, ¶ 21, 208 P.3d 676, 683 (2009) (courts presume a statute is constitutional and “when there is a reasonable, even though debatable, basis for the enactment of the statute, [courts] will uphold the act unless it is clearly unconstitutional.”); *Jilly v. Rayes*, 221 Ariz. 40, 41, ¶ 4, 209 P.3d 176, 177 (App. 2009) (court will give a statute a constitutional construction whenever possible). Also, courts must attempt to give statutes a sensible construction that accomplishes the legislative intent and avoids absurd results, considering factors such as the statute's context, subject matter, historical background, effects and consequences, and spirit and purpose. *State v.*

Gonzales, 206 Ariz. 469, 471-472, ¶ 12, 80 P.3d 276, 278-279 (App. 2003). “One of the most basic rules of statutory construction is that in construing legislative language, courts will not enlarge the meaning of simple English words in order to make them conform to their own particular sociological or economic views.” *Martinez v. Industrial Commission*, 175 Ariz. 319, 322, 856 P.2d 1197, 1200 (App. 1993).

The heading the legislature gives to a statute is not part of the law itself, A.R.S. § 1-212, but where an ambiguity exists, the title may be used as an aid to interpreting the statute. *State ex rel. Romley v. Hauser*, 209 Ariz. 539, 542, ¶ 16, 105 P.3d 1158, 1161 (2005); *State v. Romero*, 216 Ariz. 52, 53, ¶ 5, 162 P.3d 1272, 1273 (App. 2007).